



County of Fairfax, Virginia

October 22, 2014

STAFF REPORT

SPECIAL PERMIT SP 2014-DR-170

DRANESVILLE DISTRICT

APPLICANTS/OWNERS: Stephanie Dunkle Shapiro
Allen M. Shapiro

STREET ADDRESS: 11200 Beach Mill Rd, Great Falls, 22066

SUBDIVISION: John R. Rouden Property

TAX MAP REFERENCE: 3-3 ((1)) 18A

LOT SIZE: 2.54 acres

ZONING DISTRICT: R-E

ZONING ORDINANCE PROVISIONS: 8-914, 8-922

SPECIAL PERMIT PROPOSAL: To permit reduction to the minimum yard requirements based on error in building location to permit an accessory structure to remain 2.3 ft. from side lot line and to permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2014-DR-170 for the accessory dwelling unit with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

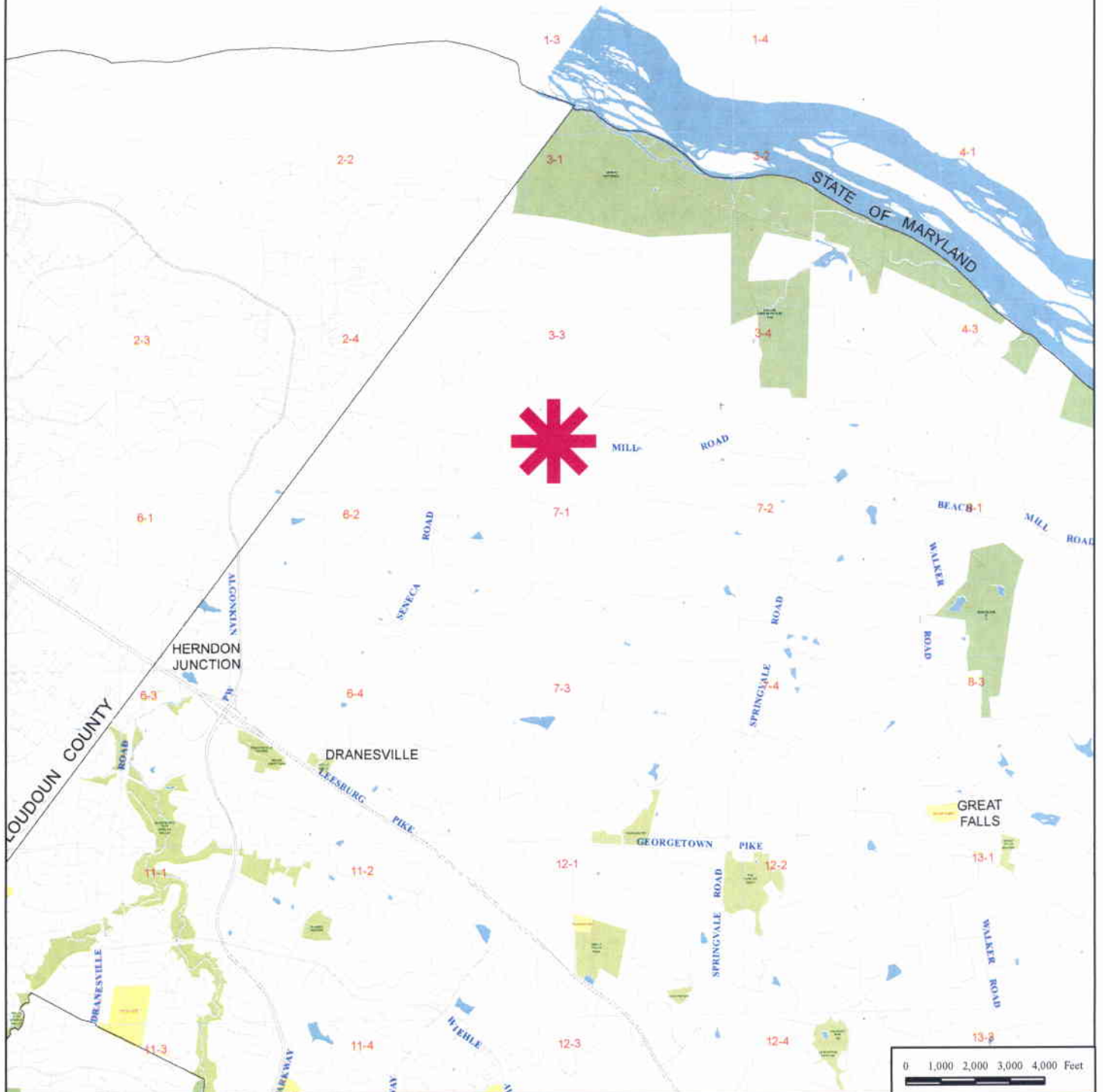


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

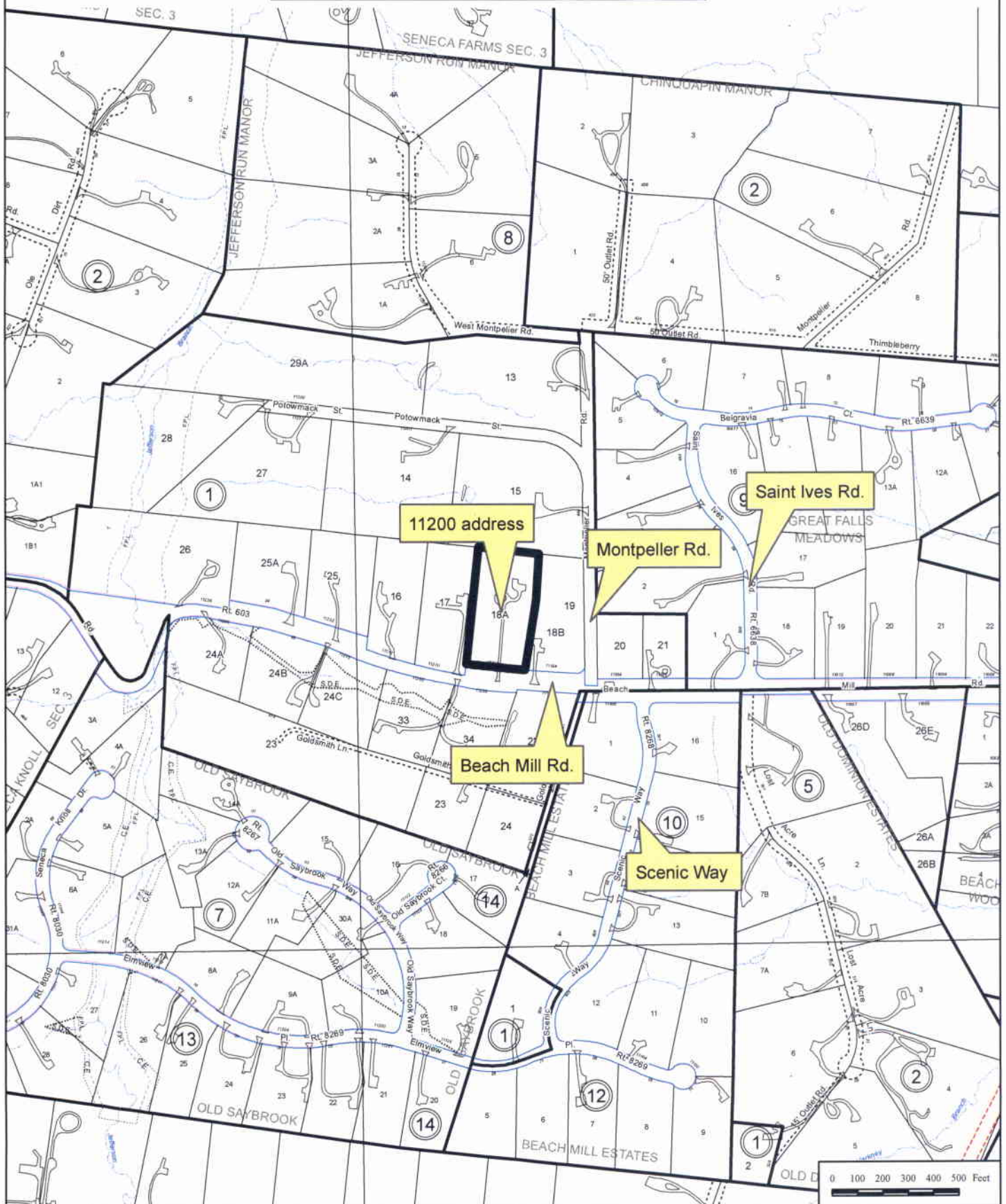
Special Permit

SP 2014-DR-170

STEPHANIE DUNKLE SHAPIRO, ALLEN M. SHAPIRO



SP 2014-DR-170
STEPHANIE DUNKLE SHAPIRO, ALLEN M. SHAPIRO



**DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA**

[illegible]

SCALE 1" = 2000'

100



OTHER SHEET
DISTING VEGTATION MAP
SPECIAL PERMIT PLAY
CUTICAL ANALYSIS

OWNERS
ALLEN M. SHAPIRO &
STEPHANIE DUNKLE SHAPIRO
11200 BEACH MILL ROAD
GREAT FALLS, VIRGINIA 22065

CPJ Associates
Charles P. Johnson & Associates, Inc.
Civil and Environmental Engineers • Planners • Landscape Architects • Surveyors
1881 Poudre Dr. Ste. 202 Fort Collins, CO 80501 Tel: 970-221-8886

DATE JUL 8, 2014
RECEIVED
Department of Planning & Zoning
JUL 8 2014
Zoning Enforcement Division

SHEET 1 OF 4

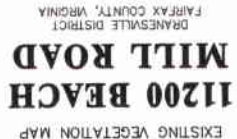
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1000

SITE AREA	
110,386.9	(2,244 AC)
<h2 style="text-align: center;">R-E ZONE</h2>	
<h3 style="text-align: center;">REQUIRED</h3>	
NUMBER OF UNITS	-----
MAXIMUM DENSITY	0.4 DU/AC
MINIMUM LOT AREA	70,000.0
MINIMUM LOT WIDTH	MINIMUM LOT = 200'
	CORNER LOT = 220'
MINIMUM BUILDING HEIGHT	35'
MINIMUM YARDS :	
FRONT	50'
REAR	25'
SIDE/END	25'
	4 SPACES
1 EX. SMOKE-FAMILY DETACHED + 1 PROP. ACCESSORY DWELLING	
110,386.9	0.4 DU/AC
INTERIOR LOT = 220'	
CORNER LOT = N/A	
27.2x	

MINIMUM STORMWATER INFORMATION FOR REZONING, SPECIAL EXCEPTION, SPECIAL PERMIT AND DEVELOPMENT PLAN APPLICATIONS

- [illegible]

[illegible]

COVER TYPE SUMMARY			DATE: 10-19-82
COVER TYPE	PRIMARY SPECIES	COVER%	
Upland Forest	Red Maple, S. Red Oak, Beech, Black Cherry	good	14,762
Lowland Tree Swamp	Loblolly Cypress	good	8,370
Lowland Tree Swamp	Gorgonian, Orange Myrtle, Alocasia, White-cedar	good	2,242
Multi-story Coastal Evermont Area			77,480
TOTAL ADJACENT			103,854

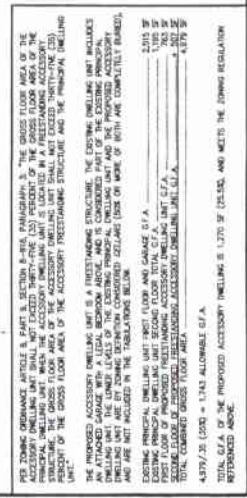
STORY TYPE	PRIMARY SERVICES	CONDITION	AGE (yr)
Unborn Fetus	First Trimester, S. First Qtr, Bleeds, Black Cherry	good	14,750
Late Second Trimester	Lupulin Cytosine	good	5,370
Late Second Trimester	Dopamine, Drugs, Myrtle, Acorilla, White-oater	good	2,242
Multi-stage Organism			77,480
Evolutionary Area			8,008
TOTAL, AVERAGE			115,630



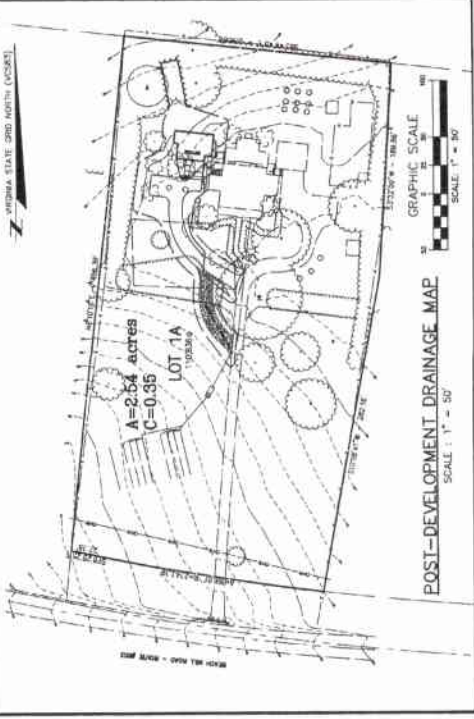
3-11(1)17
LET
A.F.
JAMES S. & MARY L. S. LONG
(DL 10707 PG 42)
ZONE / A-E USE / RESIDING

3-3K(1)169
LOT 1B

WILLIAM F. JOHNSON & LORRAINE
N.Y.
GRANARY
ONE HUNDRED AND SEVEN
FIVE - N.Y. 10011
#603



OUTFALL ANALYSIS



SPECIAL PERMIT REQUESTS

The applicant is seeking approval of two special permit requests. The first request is to allow an detached accessory dwelling unit in an accessory structure located on the application property. The second request is to allow a reduction of minimum yard requirements based on error in building location to permit a hen house to remain 18.3 feet from a front lot line.

A copy of the special permit plat entitled "Special Permit Plat, 11200 Beach Mill Road," prepared by Anthony T. Owners, P.E., of Charles P. Johnson & Associates, Inc., dated August 5, 2014 and revised through July 2, 2014, is included in the front of the staff report.

A more detailed description of the proposal is provided on page two.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 2.54 acre lot contains a 1.5 story wood single family dwelling. A covered porch exists at the entrance to the dwelling, and a stone walkway connects the entrance to the asphalt driveway. The driveway provides vehicular access to Beach Mill Road and leads to a detached garage. A stone patio with a trellis measuring 11 ft. in height exists at the rear of the dwelling. Also located in the rear yard are a shed and a garden surrounded by a chicken wire fence. In addition, a hen house is located in the front yard of the property. The property is characterized by a manicured lawn and mature trees and shrubbery. A split rail fence surrounds the rear and side yards of the property.

The zoning and uses surrounding the subject property are as follows:

	Zoning	Use
North	R-E	Single Family Detached Dwelling
East	R-E	Single Family Detached Dwelling
South	R-E	Single Family Detached Dwelling
West	R-E	Single Family Detached Dwelling



Figure 1. Lot location

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1998, and the property was purchased by the applicant in January 1994.

Since the adoption of the Zoning Ordinance, the Board of Zoning Appeals has similar applications on surrounding properties. These cases are listed in Appendix 4.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an accessory dwelling unit in a proposed detached structure located on the application property. The proposed accessory dwelling unit would be approximately 1,270 square feet, which is 26% of the total proposed gross floor area of the dwellings. The accessory dwelling unit would contain a bathroom, a bedroom, and a kitchen on the first floor; a loft area on the second

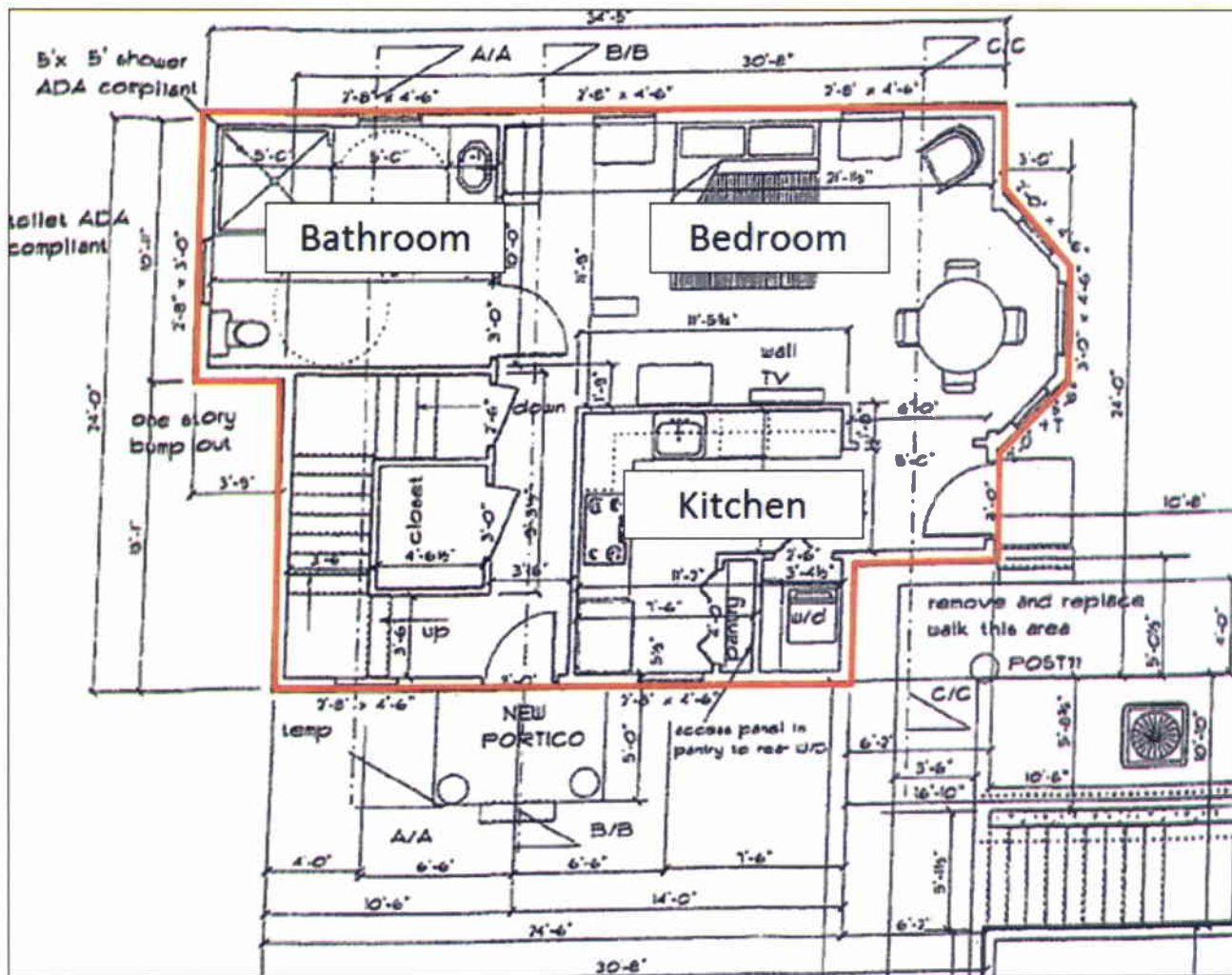
floor; and an unfinished basement area, which could potentially be converted to a gardening and workshop area. According to the Health Department, the site currently has an open permit to upgrade its existing septic system to accommodate the additional waste from the detached cottage house.

Upon approval of the special permit, the parents of one of the applicants would reside in the accessory dwelling unit. Both parents are over the age of 55 and are eligible to reside in an accessory dwelling unit under the provisions of Par. 5B (2) of Sect. 8-918 of the Zoning Ordinance. Ample parking exists in the garage and driveway of the application property to accommodate vehicles owned by the residents of the main dwelling and the accessory dwelling unit. The unit can be accessed via a door and portico entrance located in the front of the dwelling. Additionally, an at-grade sliding door exists in the basement area.

In addition, the existing hen house located in the front yard of the property is located in error, and as a part of this special permit application, the applicant requests a reduction of minimum yard requirements based on error in building location to permit the addition to remain 18.3 feet from a side lot line. Sect. 10-104 of the Zoning Ordinance states that any structures “used for the confining or sheltering of livestock and domestic fowl... shall be located no closer than fifty (50) feet to any lot line.” However, the Board of Zoning Appeals can approve modifications to this requirement under Article 8-900 of the Zoning Ordinance. The applicant requests a reduction of 31.7 feet, or 63.4%.

The current location of the hen house is separated from the side lot line by significant screening. Approximately 18 feet of Leyland Cypress serves as a barrier between the hen house and the side lot line. In addition, a 21 ft. tall Atlantic Cedar shields the view of the hen house from the rear of the property.

	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percentage of Reduction Requested
Special Permit	Hen House	Front	50 feet	18.3 feet	31.7 feet	63.4%



First Floor of Proposed ADU

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area III, Upper Potomac Planning District
Planning Sector: Riverfront Community Planning Sector (UP1)
Plan Map: Residential uses at 1 dwelling units / 5-10 acres (du/ac)

Zoning Ordinance Requirements

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Reduction of Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-918 Additional Standards for Accessory Dwelling Units
- Sect. 10-104 Location Regulations

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

8-918 Standards	Provision met?	
	YES	NO
Only permitted in association with a single family detached dwelling unit, and no more than one accessory dwelling unit per single family detached dwelling.	X	
Located within the structure of a single family detached dwelling unit; any entrances shall be located on the side or rear.	N/A; property is > 2 acres	
The gross floor area shall not exceed 35% of the total gross floor area of the principal unit.	X	
Shall not contain more than two bedrooms	X	
Must meet the following: 1. One dwelling unit shall be owner occupied 2. One dwelling unit must be occupied by a person qualifying as elderly or disabled 3. The accessory dwelling unit may be occupied by no more than 2 people; the principal dwelling unit may be occupied by one family or a group of not more than 4 persons not necessarily related by blood or marriage	X	
Accessory dwelling units intended for a disabled person must provide reasonable access and mobility.	X	
Must provide sufficient parking, as determined by the BZA	X	
Will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood.	X	
Must meet applicable regulations for building, safety, health, and sanitation.	X	
Shall be recorded among Fairfax County land records upon approval.	Upon approval	
The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice	X	

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2014-DR-170 for the accessory dwelling unit with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Similar Case History
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2014-DR-170****October 22, 2014**

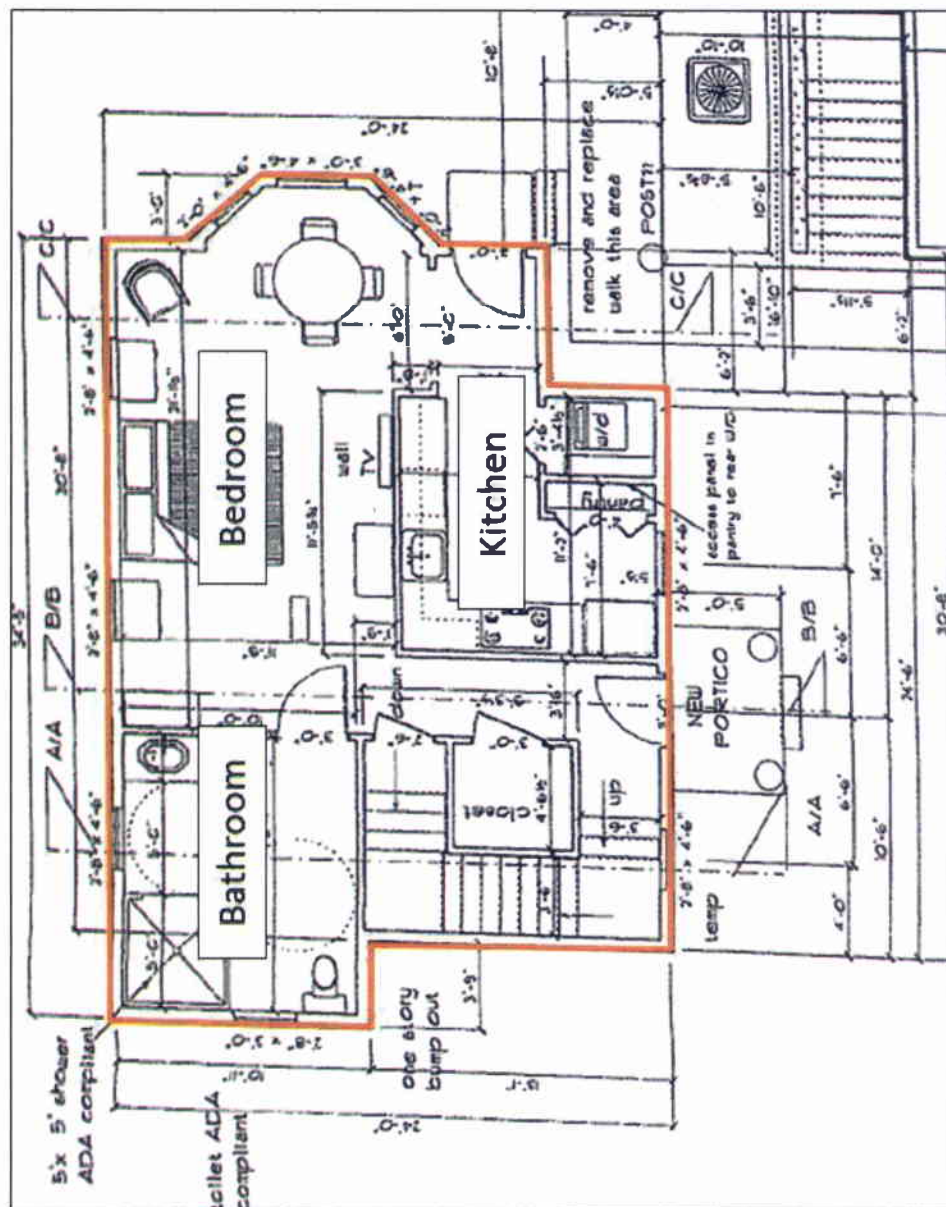
If it is the intent of the Board of Zoning Appeals to approve SP 2014-DR-170 located at Tax Map 3-3 ((1)) 18A to permit an accessory dwelling unit and a hen house under Section 8-914 and Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Stephanie and Allen Shapiro, and is not transferable without further action of this Board, and is for the location indicated on the application, 11200 Beach Mill Road, and is not transferable to other land.
3. This special permit is approved for the location and size of the addition, as shown on the plat titled "Special Permit Plat, 11200 Beach Mill Road," prepared by Anthony T. Owners, P.E., of Charles P. Johnson & Associates, Inc., dated August 5, 2014 and revised through July 2, 2014, as submitted with this application and is not transferable to other land.
4. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 1,270 square feet, and the layout shall be generally as depicted on the floor plan of the detached unit included as Attachment 1 to these conditions.

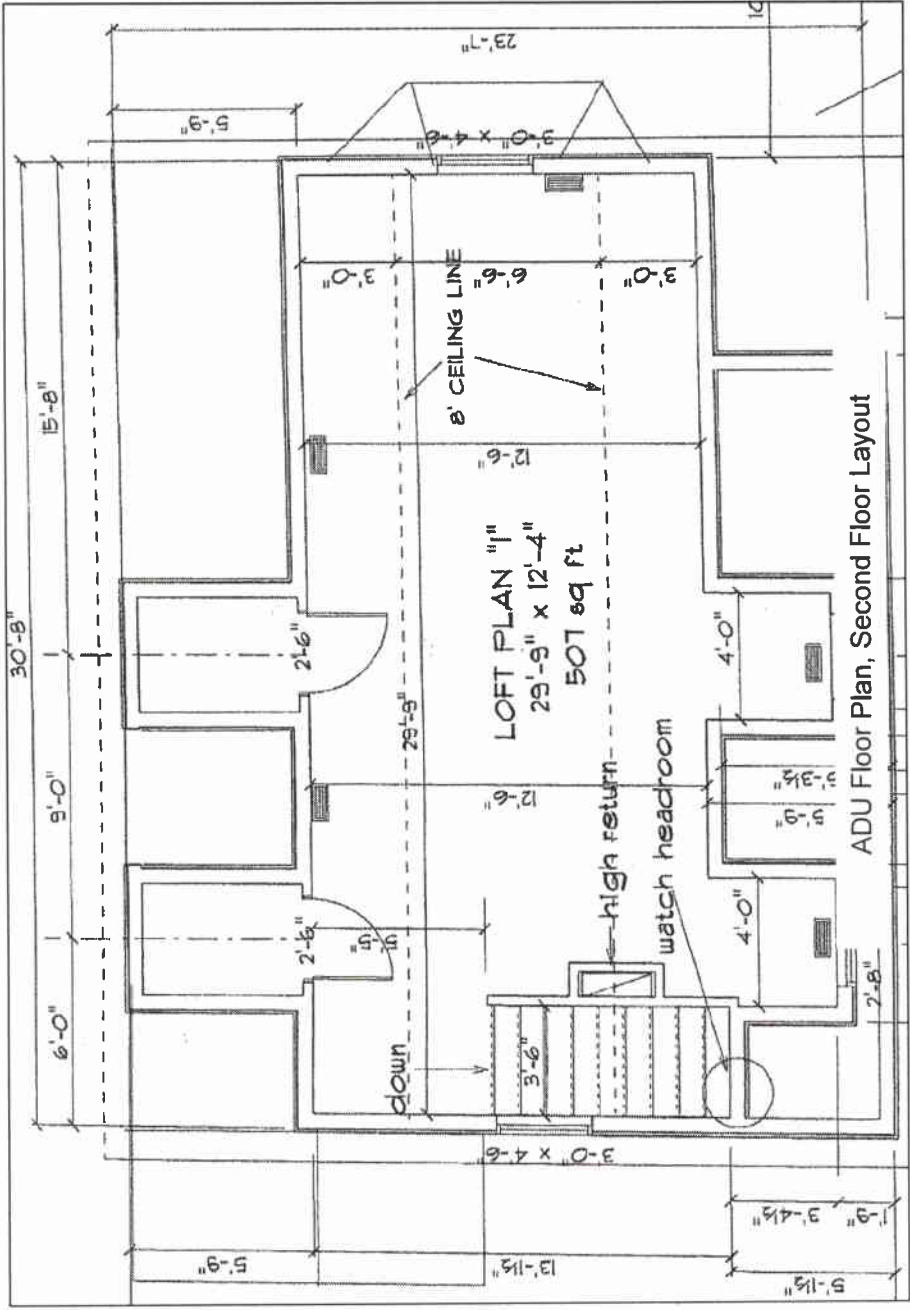
7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
8. All applicable permits and final inspections shall be obtained for the kitchen components in the accessory dwelling unit.
9. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance, or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. All parking shall be provided on site.
12. The accessory structure shall be generally consistent with the architectural renderings and materials as shown in Attachment 2 to these conditions.

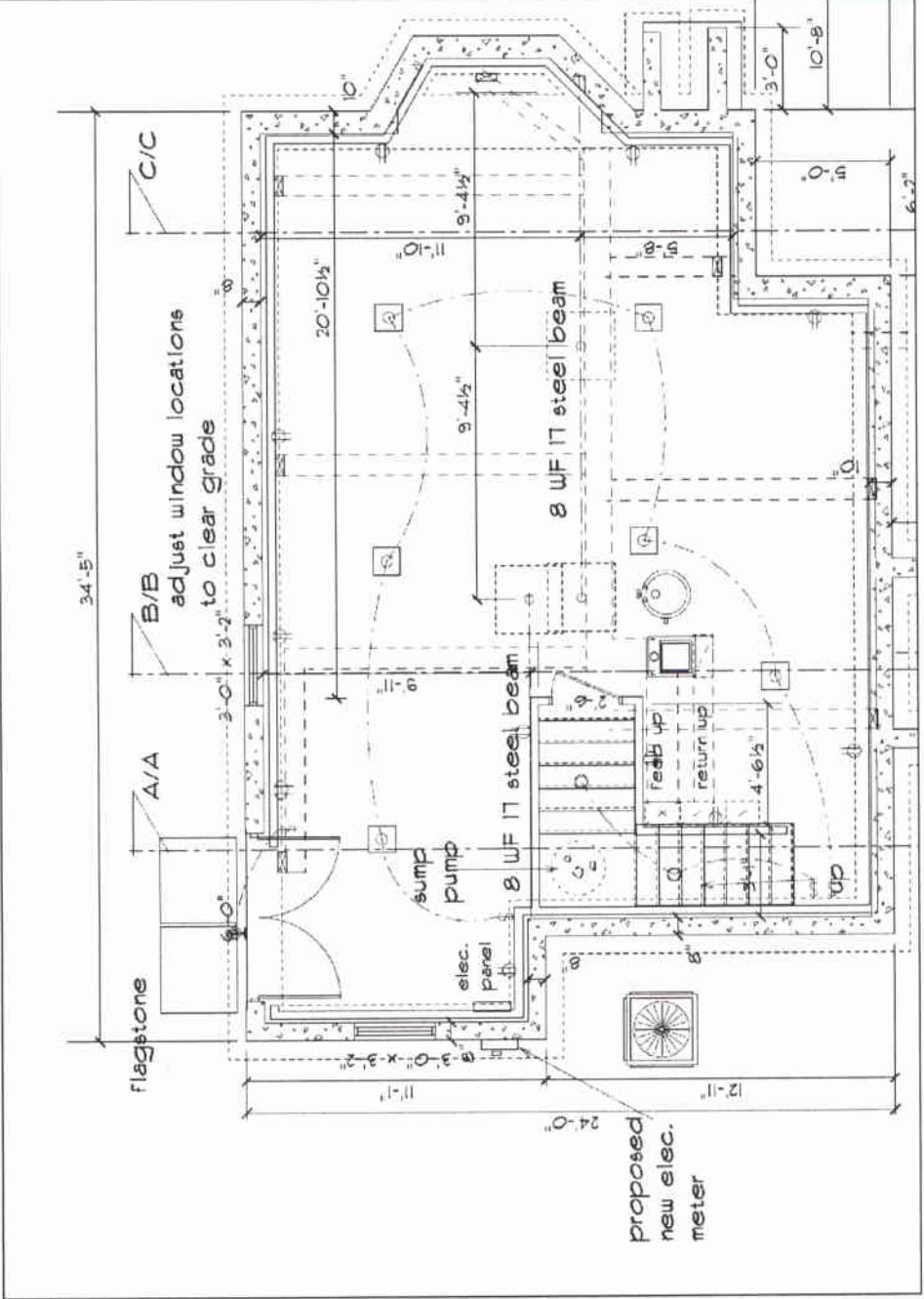
This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.



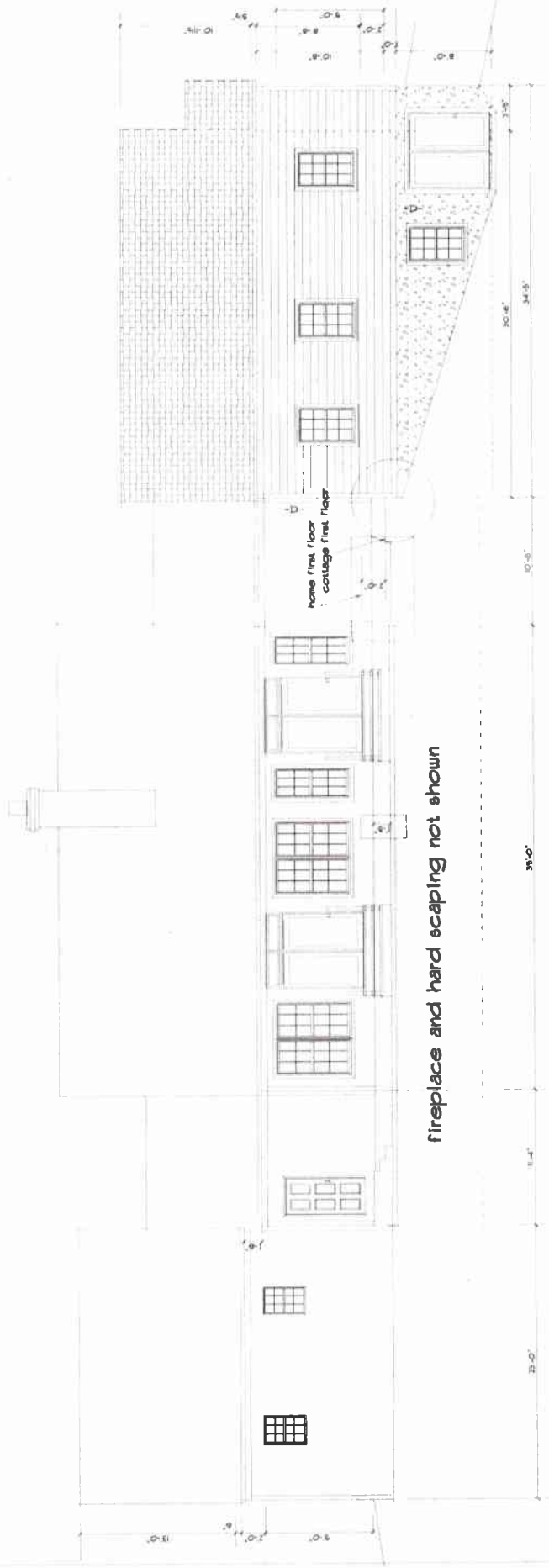
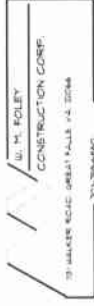
ADU Floor Plan, First Floor Layout





ADU Floor Plan, Basement Layout

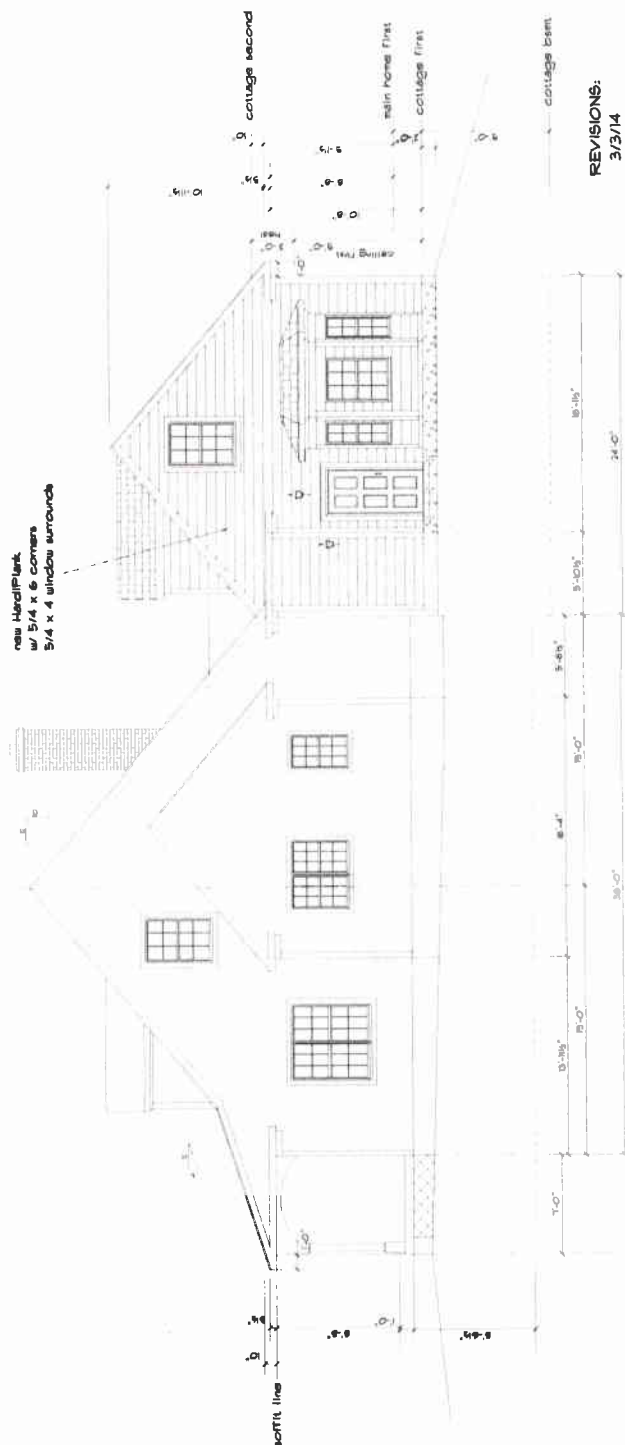
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SHAPIRO RESIDENCE
 NEW REAR ELEVATION

REVISIONS:
 3/4/14
 5/13/14
 7/25/14

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OF F.C.L.L.C. VIOLATORS WILL BE PROSECUTED



Pub301 808110-1

main home first

collagen fibres

was sectioned

REVISIONS:

3/3/14

5/13/14

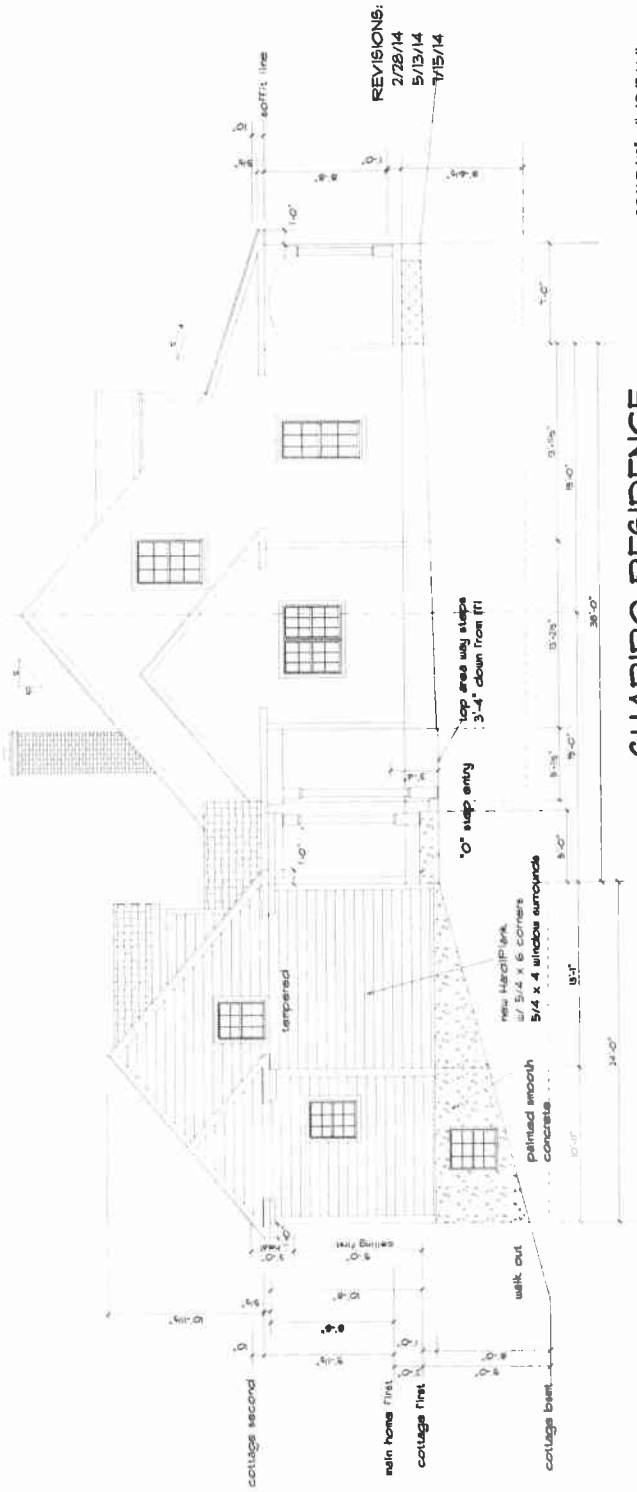
705/14
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SCALE 1/8" = 1' AT 11 X 14

SHAPIRO RESIDENCE
NEW RIGHT ELEVATION



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REVISIONS:
2/25/14
5/13/14
7/15/14

SHAPIRO RESIDENCE
NEW LEFT ELEVATION

SCALE 1/8" = 1' AT 11 X 11

Application No.(s): SP 2014-DR-170
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8-25-14
 (enter date affidavit is notarized)

I, Stephanie Dunkle Shapiro and Allen M. Shapiro, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☒ applicant 125507
☐ applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Stephanie Dunkle Shapiro, Allen M. Shapiro	11200 Beach Mill Road, Great Falls, VA 22066	Applicants/Title owners
Agent: Foley Development Group, LLC Kyle P. Foley Wayne M. Foley	1131 Walker Road, Great Falls, VA 22066	Agent/Contractor

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2014-DE-TP
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8-25-14
(enter date affidavit is notarized)

125507

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Foley Development Group, LLC
(703)759-6880
1131 Walker Road, Great Falls, VA 22066

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

Kyle P. Foley- Managing Member
Wayne M. Foley- Member

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s):

SP 2014 - DR 170

(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8-25-14

(enter date affidavit is notarized)

125507

- 1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

Application No.(s):

SP 2014. DR 170
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8-25-14
(enter date affidavit is notarized)

125507

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2014-DR-170
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8-25-14
(enter date affidavit is notarized)

125507

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant

☐ Applicant's Authorized Agent

Allen M. Shapiro, applicant

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 25 day of August, 2014, in the State/Comm. of Fairfax, County/City of VA.

My commission expires:



[Signature]
Notary Public

RECEIVED
Department of Planning & Zoning

SEP 08 2014
Zoning Evaluation Division

Stephanie Dunkle Shapiro
Allen M. Shapiro
11200 Beach Mill Road
Great Falls, VA 22066

April 11, 2014

County of Fairfax
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

RE: Special Permit Statement of Justification

To Whom It May Concern,

We, Stephanie Dunkle Shapiro and Allen M. Shapiro, are interested in building an addition to our existing home in order to have Stephanie's parents live with us. Our existing house has a master bedroom on the main level and two bedrooms on the second floor which are occupied by our two sons. Our basement does not have windows and therefore does not meet code for a bedroom space. We simply do not have space to have Stephanie's parents move directly into our existing home. Also, due to the layout of the existing house, it is not possible to attach the addition to the house, so it makes the most sense in terms of the architecture to have the new addition mirror the existing detached garage on the other end of the house. Once complete, the view of the front of the house would be very balanced and symmetric.

Stephanie's parents, John and Alice Dunkle, currently live at 235 Seneca Road in Great Falls, and have since 1977. They are no longer able to keep up the property and also require additional care. Stephanie's mother has advanced Parkinson's disease and now requires ADA-compliant living space and help with daily activities. The new addition would be ADA-compliant, and would allow for better care for Stephanie's mother with our family around assisting with her daily care.

We are strongly opposed to placing Stephanie's parents in a retirement community or an assisted living facility. Stephanie's father is a Master Gardener (and a Virginia Cooperative Extension Master Gardener Volunteer in Fairfax County) and thrives (both mentally and physically) on providing organic produce to the family. Through the years, Stephanie's mother has been a gourmet cook (the perfect complement to a Master Gardener), and though her ability to continue to do this is diminishing, she would be devastated to be without an oven. She pushes herself daily to continue to cook gourmet meals and treats (with the help of her husband now), and without this, she would be 'defeated.' We are therefore requesting a special permit in order to have a small kitchen with an oven in the new addition. We are doing this specifically to provide a comfortable living space for two long-time Great Falls residents so that they can age gracefully 'in place,' surrounded by family, and not have to give up the very things that define who they are. When the time comes that both parents have passed, we have no

intention of renting out the space, and would be willing to have the oven removed or whatever is required to satisfy any concerns that Fairfax County may have with this space.

In terms of specific items that we are asked to address per the zoning ordinance, they are as follows...

Article 8 Part 0 section 8-011 paragraph 6

- A. Type of operation- **addition to private home for owner's aging parents.**
- B. Hours of operation- **N/A**
- C. Estimated number of patrons/clients/patients/pupils/etc.- **N/A**
- D. Proposed number of employees/attendants/teachers/etc.- **N/A**
- E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day- **no traffic impact.**
- F. Vicinity or general area to be served by the use- **private home (see plans).**
- G. Description of building facade and architecture of proposed new building or additions- **as per the building plans provided, the addition will match the architectural design of the existing house. The addition will mirror the garage on the opposite side of the house so that the entire house will look balanced and 'symmetric.' The addition will not really be visible to neighbors on the sides or to the north due to trees, and will not really be visible from the road due to the setback as well as trees.**
- H. **No hazardous or toxic substances will be generated, utilized, stored, treated and/or disposed of on site. No storage tanks or containers will be put on site.**
- I. **The proposed use is for an addition to a private home. The proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards except for the special permit that we are applying for with this package.**

Article 8, Part 9, section 8-918

- 1. The existing structure is a detached single family dwelling unit with an attached garage. We are proposing 1 detached accessory dwelling unit.
- 2. Our lot is over 2 acres. See civil engineering drawings submitted with this package.
- 3. Calculations on GFA as follows for detached accessory dwelling unit.
 - a. Existing home top two floors including garage and finished area above garage = 3,709
 - b. New structure top two floors GFA equals = 1,270
 - c. Total combined GFA = 4,979
 - d. $4,979 \times 35\% = 1,743$ total allowable GFA of accessory dwelling.
 - e. New structure is less than the total allowable GFA and is in compliance
 - i. Per zoning ordinance definition 20-12 for CELLAR; "The portion of a building partly underground, having one-half (1/2) or more than one-half (1/2) of its clear height below the grade plane."
 - ii. Both the existing structure and proposed accessory dwelling unit are considered a CELLAR and were not included in the above calculations.

4. The accessory dwelling unit contains 1 legal bedroom.
5. Occupancy requirements as follows.
 - a. We (the land owners) will occupy the main home.
 - b. As noted above our parents will be occupying the accessory dwelling unit. They are both over the age of 55 and our mother qualifies as physically disabled. Please see attached letters from two separate doctors.
 - c. The accessory dwelling unit will be occupied solely by our two parents. The main home is occupied solely by our immediate family (husband, wife and children).
6. The accessory dwelling unit is designed for access acceptable for my mother's condition.
7. Minimal additional parking will be added to allow safe and close access to the accessory dwelling unit by our mother.
8. Given the significant landscaping buffer in place, the attached letters from our neighbors and the attached pictures we believe this requirement has been met.
9. The accessory dwelling unit shall be constructed by a "class A" licensed general contractor and will meet all applicable codes and regulations.
10. Agreed and accepted.
11. Agreed and accepted
12. Agreed and accepted
13. N/A

Addendum to statement of justification made on September 4, 2014

During the approval review process of our special permit application as noted above the Department of zoning and evaluation pointed out to us that a small hen house we built on our property several years ago is in violation of the property line set back requirements. Specifically we are in violation of Article 10-104 (9) (B) which states that this structure must be located at least 50' from any lot line. Our hen house is located 18.3 feet from the side yard lot line. All other lot lines are in compliance.

Our family built this small hen house as a family project not realizing that it was in violation of any zoning ordinance. The keeping of hens (and in turn the construction of the hen house) is a hobby and bonding experience for our family. We keep less than 20 hens (allowed up to 64 hens per zoning) and don't use the hens for any commercial gain. These animals are more pets to us then livestock. We understand (and agree) with the concept of the zoning requirements to keep livestock structures 50' from the property line (mainly the neighbors) due to odor and noise, especially if large quantities of animals are being kept. This is not the case with our hen house. We keep a small number of hens for personal use only in a small hen house, the hen house is kept clean and no foul odor or loud and disturbing noise takes place. Our neighbors that share the property line in question have no problem with the hen house, they even wrote a letter in support of our accessory dwelling unit request above.

In terms of specific items that we are asked to address per the zoning ordinance, they are as follows...

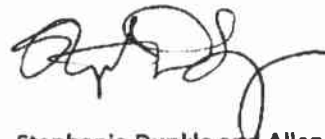
8-914

2. The BZA determines that:

- A. The error does exceed 10 percent of the measurement involved.
- B. N/A
- C. The construction of the small hen house in violation of zoning was an honest mistake made by long time property Owners in a rural area.
- D. It is our belief that this ordinance is in place to protect adjacent property owners from obtrusive smell and noises. This hen house along with the number of hens does not create a nuisance for the neighbors.
- E. The neighbors dwelling is nowhere near the hen house and the side lot line in questions has a full, natural buffer of trees so this hen house is not even easily visible from the neighbor's property.
- F. This hen house and the hens do not create any unsafe conditions to the public, our neighbors or their property.
- G. There is no spot that is 50' away from our property line that has suitably flat ground and keeps the hen house easily viewable from our home without greatly impacting existing structures and/or landscaping already in place.
- H. The small size of this structure in no way affects the density or floor area ratio permitted by the applicable zoning district regulations for a lot zoned R-E. The height of this structure at its peak is 9' high and the width is approximately 12' x12'.

Please do not hesitate to contact us with any concerns or questions (703-430-0814). For matters directly related to the attached building plans and site plans please contract Kyle Foley with Foley Development Group, LLC. (703) 759-6880. His company is included on our notarized affidavit. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be a cursive combination of the names Stephanie Dunkle and Allen M. Shapiro.

Stephanie Dunkle and Allen M. Shapiro

RECEIVED
Department of Planning & Zoning
SEP 08 2014
Zoning Evaluation Division

Similar Case History

ZAPS - SP - SP 2005-DR-015

ZAPS - SP - SP 2007-DR-127

ZAPS - SP - SP 2006-DR-054

Application Desc ...	TO PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 6.1 FEET WITH EAVE 5.1 FEET FROM REAR LOT LINE
Application Desc ...	REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ACCESSORY STRUCTURE 10.5 FEET FROM SIDE LOT LINE
Application Desc ...	ACCESSORY DWELLING UNIT

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
- 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
- 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.